

AMENDED IN SENATE JULY 15, 2003

AMENDED IN SENATE JUNE 27, 2003

AMENDED IN ASSEMBLY JUNE 3, 2003

AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 928

Introduced by Assembly Member Pacheco

February 20, 2003

An act to ~~add Section 487.8 to~~ *amend Section 499b of the Penal Code*, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 928, as amended, Pacheco. Theft: vessels.

~~Existing law contains various provisions establishing the crime of theft.~~

~~This bill would make it an offense punishable by imprisonment in a county jail not exceeding one year, or in the state prison, or by a fine not exceeding \$5,000, or by both that imprisonment and fine, for a person to operate or take a vessel not his or her own, without the consent of the owner, and with the intent either to permanently or temporarily deprive the owner of title to, or possession of, the vessel, with or without intent to steal the vessel, or any person who is a party or an accessory or accomplice in that unlawful operation of, or unauthorized taking or stealing of, the vessel.~~

~~The bill would also make it an offense punishable by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 3,~~

~~or 4 years, or by a fine not exceeding \$10,000, or by both that imprisonment and fine, for a person to commit the offense when the vessel is a distinctively marked bar pilot vessel and the vessel is taken while transporting United States Coast Guard personnel for the purpose of performing security functions.~~

~~The bill would make the offense punishable by imprisonment in the state prison for 2, 3, or 4 years, or by a fine not exceeding \$10,000, or both that imprisonment and fine when the vessel is distinctively marked as a law enforcement or fire department vessel, and is taken during an emergency call, as specified.~~

~~The bill would provide for enhanced sanctions where previous felony convictions are involved.~~

~~Because this bill would create new crimes, the bill would impose a state-mandated local program.~~

Existing law provides that any person who shall, without the permission of the owner thereof, take any bicycle or motorboat or vessel, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$400, or by imprisonment not exceeding 3 months, or by both that fine and imprisonment.

This bill would provide that any person who, without the permission of the owner thereof, takes any motorboat or vessel, for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

By increasing the term of imprisonment in a county jail for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.— Section 487.8 is added to the Penal Code, to~~
2 ~~read:~~

3 ~~487.8.— (a) (1) Except as provided in paragraphs (2) and (3),~~
4 ~~any person who operates or takes a vessel not his or her own,~~
5 ~~without the consent of the owner, and with the intent either to~~
6 ~~permanently or temporarily deprive the owner of his or her title to,~~
7 ~~or possession of, the vessel, with or without the intent to steal the~~
8 ~~vessel, or a person who is a party or an accessory to or an~~
9 ~~accomplice in the operation or unauthorized taking or stealing of~~
10 ~~a vessel, is punishable by imprisonment in a county jail for not~~
11 ~~more than one year or in the state prison or by a fine of not more~~
12 ~~than five thousand dollars (\$5,000), or by both that fine and~~
13 ~~imprisonment.~~

14 ~~(2) If the vessel is distinctively marked as a bar pilot vessel, and~~
15 ~~the vessel is taken while transporting United States Coast Guard~~
16 ~~personnel for purposes of performing security functions, any~~
17 ~~person committing a violation of paragraph (1) is punishable by~~
18 ~~imprisonment in a county jail not exceeding one year, or~~
19 ~~imprisonment in the state prison for two, three, or four years, or~~
20 ~~a fine not exceeding ten thousand dollars (\$10,000), or by both that~~
21 ~~imprisonment and fine.~~

22 ~~(3) If the vessel is a distinctively marked vessel of a law~~
23 ~~enforcement agency or fire department, and is taken while the~~
24 ~~vessel is on an emergency call and the fact of the emergency call~~
25 ~~is known or reasonably should have been known to the person~~
26 ~~operating or taking the vessel, or to any person who is a party or~~
27 ~~an accessory to, or an accomplice in, the operation or the~~
28 ~~unauthorized taking or stealing of the vessel, the offense is a felony~~
29 ~~punishable by imprisonment in the state prison for two, three, or~~
30 ~~four years or by a fine of not more than ten thousand dollars~~
31 ~~(\$10,000), or by both the fine and imprisonment.~~

32 ~~(b) In any prosecution for a violation of subdivision (a), the~~
33 ~~consent of the owner of a vessel to its taking or operating may not~~
34 ~~in any case be presumed or implied because of the owner's consent~~
35 ~~on a previous occasion to the taking or operating of the vessel by~~
36 ~~the same or a different person.~~

37 ~~(c) The existence of the facts of the distinctively marked bar~~
38 ~~pilot vessel, law enforcement agency vessel, or fire department~~

1 ~~vessel and the existence of United States Coast Guard personnel~~
2 ~~onboard a bar pilot vessel for purposes of performing security~~
3 ~~functions, or the existence of an emergency call, as applicable,~~
4 ~~shall be alleged in the accusatory pleading for purposes of~~
5 ~~prosecuting a violation of paragraph (2) or (3) of subdivision (a),~~
6 ~~and either admitted by the defendant in open court, or found to be~~
7 ~~true by the jury trying the issue of guilt or by the court where guilt~~
8 ~~is established by plea of guilty or nolo contendere or by trial by the~~
9 ~~court sitting without a jury.~~

10 (d) A person who has been convicted of one or more previous
11 felony violations of this section is punishable by imprisonment in
12 the state prison for two, three, or four years or by a fine not
13 exceeding ten thousand dollars (\$10,000), or by both that
14 imprisonment and fine. Any prior felony conviction for a violation
15 of this section shall be alleged in the information or indictment and
16 either admitted by the defendant in open court, or found to be true
17 by the jury trying the issue of guilt or by the court where guilt is
18 established by a plea of guilty or nolo contendere, or by trial by the
19 court sitting without a jury.

20 (e) ~~As used in this section, “vessel” has the same meaning as~~
21 ~~that term is defined in Section 651 of the Harbors and Navigation~~
22 ~~Code.~~

23 *SECTION 1. Section 499b of the Penal Code is amended to*
24 *read:*

25 499b. (a) Any person who shall, without the permission of
26 the owner thereof, take any bicycle ~~or motorboat or vessel~~, for the
27 purpose of temporarily using or operating the same, ~~shall be~~
28 ~~deemed is~~ guilty of a misdemeanor, and ~~upon conviction thereof,~~
29 ~~shall be punished~~ punishable by a fine not exceeding four hundred
30 dollars (\$400), or by imprisonment *in a county jail* not exceeding
31 three months, or by both that fine and imprisonment.

32 (b) *Any person who shall, without the permission of the owner*
33 *thereof, take any vessel for the purpose of temporarily using or*
34 *operating the same, is guilty of a misdemeanor, and shall be*
35 *punishable by a fine not exceeding one thousand dollars (\$1,000),*
36 *or by imprisonment in a county jail not exceeding one year, or by*
37 *both that fine and imprisonment.*

38 SEC. 2. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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